

The background of the entire page is a photograph of the United States Capitol building in Washington, D.C. The building is a large, white, neoclassical structure with a prominent dome. The sky is blue with scattered white clouds. In the foreground, a person's hand is visible holding a white sign.

BGA-ALPER SERVICES Integrity Index

An exclusive report and analysis of vital laws enacted in all 50 states to fight government corruption and compel public officials to be more open and responsive to the people.

WE
THE
PEOPLE



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The Better Government Association’s *BGA-Alper Services Integrity Index* is an exclusive report and analysis of vital laws in all 50 states forged to fight government corruption and compel public officials to be more open and responsive to the people.

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FROM THE BETTER GOVERNMENT ASSOCIATION

A letter from Andy Shaw, BGA President and CEO

“Integrity” is not a word we generally associate with the states of Rhode Island, New Jersey, Illinois and Louisiana.

Most people in a multiple choice quiz would probably pick the word “corruption” to go with those states because of the sheer volume of high-visibility indictments, trials and convictions of their top public officials.

But counterintuitive as it may seem, those states occupy four of the top six spots in our new 50-state *BGA-Alper Services Integrity Index*, which measures the strength, or integrity, of their laws in four key areas: Open Meetings, Freedom of Information, Whistleblower Protection and Conflict of Interest.

This is the third iteration of our integrity index. It’s intended to inform people in all 50 states about the commitment their elected officials have to integrity.

What is the BGA?

The Better Government Association (BGA) is a Chicago-based nonpartisan, nonprofit government watchdog organization in its 90th year. The BGA fights waste, corruption and inefficiency in government through investigative journalism, policy research and advocacy and civic engagement.

FROM THE BETTER GOVERNMENT ASSOCIATION

So what's going on here? Well, the most logical answer is that the states with the worst reputations and sorriest histories of political corruption face the most public pressure to clean up their acts, so they pass new laws and strengthen old ones to create a framework of integrity.

That doesn't mean that all of the public officials in those states are following the new rules or obeying the new laws—you can lead a horse to water...etc., etc.—but at least they know what's expected. And, in some cases, that's a strong incentive to act in the public interest, which is the definition of political integrity.

Conversely, the index is not intended as a condemnation of states at the bottom of the integrity list. Perhaps they haven't experienced rampant political corruption and, as a result, they haven't felt the need to pass tough laws.

As for us, we're the Better Government Association, a 90-year-old Chicago-based but statewide anti-corruption watchdog—a nonprofit civic organization that shines a light on government and holds public officials accountable.

We investigate, litigate, educate and advocate for the better government we deserve.

The BGA believes this Integrity Index serves to advance that important mission and wishes to thank Chicago-based Alper Services LLC, and longtime BGA board member Howard Alper, for supporting such a vital project. The BGA is also grateful to its policy team for researching, compiling and crafting the Index's rich content.

This is the third iteration of our integrity index. It's intended to inform people in all 50 states about the commitment their elected officials have to integrity, at least in the form of laws in the key areas we measured.

Overall, we've seen some progress since our last report in 2008 but there is still a long way to go. In fact, on a scale of 100 percent, which is maximum integrity, the 50-state average is only 55 percent.

Rhode Island is first, at just under 70 percent, and Montana is last, at just over 28 percent.

I'll stop here and let you absorb the details about your state, and all 50 states, in the subsequent

pages, which include sections on findings, methodology, rationale and conclusions, along with tables and graphics that lay out every detail.

This is offered in the spirit of transparency and accountability, with a goal of stimulating conversation and debate and, perhaps, an even greater resolve in all 50 states to strengthen laws that promote integrity, even if they can never guarantee it.

Thanks for your interest.



Andy Shaw

BGA President and CEO

WHY WE PRODUCED THIS REPORT

This Index is the culmination of a year's worth of exhaustive and, occasionally, painstaking research, analysis, writing, editing and other related tasks performed by the BGA's policy team, co-workers and contributors.

Now that the 2013 Index is available, one may ask: What type of reaction or change does this watchdog organization hope will occur by bringing to light this mass of crucial information and examination?

The BGA hopes this Index will help inspire people to press for more responsive government. Indeed, if this Index reflects one major trend, it's that too many states are dismissing or ignoring the public's right to know. That must change.

To that end, this Index provides the basic but crucial information needed to help people push their calcified governments towards their recognition that openness and accountability is not an obstacle, but rather, the basic passageway to greater democratic freedom and liberty.

Looking at just one state doesn't provide the wider perspective needed to understand what's happening throughout the country.

Here are a few reasons

why we produced the Index:

- ▶ **Open Government.** The driving force behind the BGA's Integrity Index is an unrelenting belief that open government means better government. Fair and easy access to government information—the people's information—is essential to keeping democracy alive and ensuring everyone is allowed a say in how they are served by their elected and public officials. This Index shines a light on every state's integrity laws and their potential impact.
- ▶ **National perspective.** This Index charts how all 50 states compare to each other when it comes to key aspects of important integrity laws. Looking at just one state doesn't provide the wider perspective needed to understand what's happening throughout the country. When it comes to integrity laws, the Index shows which states are pacesetters and which are laggards.
- ▶ **Resource Center.** The Index is a resource for good-government advocates (in and out of public life) who need a starting point when crafting new legislation, or when fighting to keep governments accountable and transparent.

MAJOR FINDINGS

In a democratic society, protecting and advancing the people's right to know is one of government's most important and fundamental duties.

However, there's a lot of work to be done before that job is accomplished.

That is one of the over-arching messages to emerge from the *BGA-Alper Services Integrity Index*, an in-depth analysis of essential integrity laws from all 50 states—statutes designed to protect the public's inherent right to free, open and easily accessible information, data and records that are crucial to making government decisions that affect residents' lives today, tomorrow and beyond.

Specifically, the Index examined four types of statutes: Freedom of Information laws; Open-Meetings laws; Whistleblower-Protection laws and Conflict of Interest laws.

The Index does not measure state corruption; instead it evaluates what safeguards are in place against corruption.

Which laws were evaluated?

The laws selected do not represent all the integrity laws within state governments. However, the BGA believes the following laws are paramount to providing essential government transparency, accountability and accessibility.

Freedom of Information Laws mandate public access to most government records and information. Public access to government documents and data is vital to open government and offers an effective mechanism for citizens to hold their government accountable.

Open-meetings acts mandate public bodies meet and make most decisions in public rather than behind closed doors. Open meetings create a transparent decision-making process and allow citizens to monitor public bodies.

Conflict of interest laws mandate lawmakers publicly disclose their financial interests. Financial disclosure laws expose potential conflicts of interest lawmakers may have with legislation they are voting on.

Whistleblower-protection laws mandate public employees be protected from retaliatory actions for exposing mismanagement, waste and fraud in their workplace. Protecting public employees who blow the whistle makes it more likely that they report waste and fraud. In turn, this waste and fraud is likely to be corrected and avoided in the future.

MAJOR FINDINGS

The BGA's motto is "Shining a light on government," and to that end, this Index provides an exclusive and unique view of each state's existing laws designed to promote integrity and fight public corruption, abuse and misuse.

Is there a reality gap between having integrity laws on the books and public officials actually following of those rules? Absolutely. And history shows that a distortion of power and betrayal of public trust can occur at every level of government.

But this Index measures laws as they appear on paper—not their implementation. The Index does not measure state corruption; instead it evaluates what safeguards are in place against corruption. In doing so, the Index measures states against BGA-researched "best practices" on a scale of 100 percent. The higher the score, the closer a state is to achieving that "best practices" top standing.

In reviewing this information you'll find that states vary when it comes to the integrity laws in force.

Still, there are enough cross-border patterns, trends and similarities to provide some general conclusions of how the states that make up our nation are doing in the quest to make public officials accountable and responsive to their constituents.

Here are some of the Index's major findings:

Failing to Score. The Index measured state laws against accepted best practices in each of the four major categories of statutes. On a scale of 100%, no state comes close to achieving best practices. Overall, the average total score for all states is 55%. Rhode Island scored the highest with 70% while Montana was last with 28%.

Legislative Break Down. Overall, states are slow in achieving best practices within the four main integrity laws. On a scale of 100%, the states average 49% for Freedom of Information Act; 48% for Open-Meetings Act; 62% for Conflict of Interest Laws and 62% for Whistleblower-Protection Laws.

Corruption Vs. Integrity Laws. There's little evidence that states approach reform comprehensively or proactively. Instead, they tend to be reactionary, cleaning up selected programs or policies in the aftermath of a political scandal. Indeed, the notion that states reform in response to crisis in public confidence or outrage is suggested by the

Index's final rankings in which states that have recently dealt with major corruption issues, such as Illinois, often have adopted strong anti-corruption laws afterward.

Slamming Door on Open Meetings. The BGA found the Open Meetings Act is the weakest integrity law across all states, with an average score of 48%. Rhode Island's 72% was No.1 while Montana's was last at 13%. Among the shortfalls, many Open Meetings Act statutes don't adequately address the increased use of the Internet to disseminate information. For example, 34 states do not require meeting notices be posted online.

Technology Disconnect. One of the major changes since the BGA's last Integrity Index in 2008 is society's quantum leap in electronic data gathering, storing, distribution and access. This version of the Index considers how integrity laws should address the availability of public data in a variety of electronic formats and using the Internet to obtain and disburse public information. The BGA analyzed the inclusion of such technology in open-meetings, open-records and conflict of interest laws across all states. The conclusion: States are just beginning to codify necessary use of technology into their laws; however, many have a long way to go. For example, only 25 states make it possible to obtain documents in a variety of easily accessible electronic formats.

MAJOR FINDINGS

Conflict Laws Grade: “Incomplete.” Across the country, conflict of interest laws are bolstered by strong filing requirements that compel public officials to reveal, on some level, possible conflicts. However, the public’s poor access to such information, coupled with inadequate and limited disclosure of public officials’ financial interests, undermines the laws’ intent.

Forty-seven states require state-level public officials to file financial disclosure forms. However, of the states with strong filing provisions, only a handful require broad and detailed information on the financial disclosure forms. Additionally, only 12 states with strong filing provisions require financial disclosure forms to be accessible both in person at a central office and online.

Bulking Up Whistleblower Protection. Most states have strong laws regarding basic protection of whistleblowers but offer them limited protection or legal options if their employer retaliates against

them. Forty-one states have whistleblower-protection laws covering all state employees; six of these states also include government contractors. Yet if an employer targets a whistleblower, it is difficult to fight back: Only nine states provide whistleblowers who suffer retaliation an option to seek recourse, such as choosing between using an administrative remedy and challenging the action in court. Many states only provide one course of action. Moreover, there aren’t strong penalties designed to discourage employers from taking unjustified retaliatory actions: Only six states provide for criminal penalties and 26 states provide for no penalties at all.

Advancing Freedom of Information Act. The Index found most states’ open-records laws contain acceptable regulations regarding response time. Thirty-one states require a response within five business days, and only three states do not provide a response time. However, in most states, public bodies that violate the act have little to fear because no strong disciplinary action exists for violating the act.

In the BGA’s view, the integrity laws and related examples examined in this Index are essential to creating an environment of preserving democracy and improving society. These laws enable everyday people to “trust but verify” what their public officials are doing or failing to do.

Editor’s Note

The BGA conducted its research from June of 2012 through December 2012. Therefore, the Index’s results reflect laws that were on the books during that time period and does not include any legislative changes made since then.

MAJOR FINDINGS

Final Integrity Index Rankings

State	Rank	Total	FOIA	OMA	WBP	COI	State	Rank	Total	FOIA	OMA	WBP	COI
Rhode Island	1	69.77%	63.0%	72.0%	72.9%	71.2%	Oklahoma	26	56.01%	37.6%	53.8%	74.0%	58.7%
New Jersey	2	69.18%	76.1%	59.7%	77.1%	63.9%	North Dakota	27	55.86%	39.1%	59.3%	70.8%	54.2%
Illinois	3	68.49%	74.0%	60.9%	72.9%	66.2%	Arizona	28	55.65%	22.4%	58.2%	61.5%	80.6%
Nebraska	4	68.14%	74.2%	61.3%	66.7%	70.4%	Minnesota	29	55.17%	52.0%	46.3%	62.5%	60.0%
California	5	67.29%	62.1%	61.6%	79.2%	66.3%	Maryland	30	54.67%	58.7%	27.5%	61.5%	71.0%
Louisiana	6	64.86%	61.5%	52.1%	63.5%	82.3%	Oregon	31	54.53%	45.1%	36.0%	64.6%	72.5%
Texas	7	64.71%	43.4%	69.4%	81.3%	64.8%	Mississippi	32	54.31%	37.6%	43.6%	64.6%	71.5%
Washington	8	62.73%	55.6%	45.9%	66.7%	82.8%	New Mexico	33	53.28%	38.8%	50.7%	64.6%	59.1%
Kentucky	9	62.20%	67.7%	32.1%	79.2%	69.8%	Kansas	34	53.21%	41.3%	35.6%	67.7%	68.2%
Arkansas	10	60.99%	80.6%	34.8%	56.3%	72.3%	Alaska	35	52.88%	32.5%	30.9%	76.0%	72.1%
New Hampshire	11	60.42%	45.2%	60.6%	77.1%	58.8%	Wisconsin	36	52.21%	38.6%	46.3%	60.4%	63.5%
West Virginia	12	59.45%	50.2%	36.1%	76.0%	75.4%	Colorado	37	51.71%	65.1%	31.7%	59.4%	50.7%
Hawaii	13	59.22%	40.8%	56.0%	75.0%	65.1%	Florida	38	51.37%	55.5%	34.1%	46.9%	69.0%
North Carolina	14	59.21%	37.7%	66.4%	60.4%	72.3%	Maine	39	50.43%	31.8%	35.1%	62.5%	72.3%
Massachusetts	15	59.09%	33.0%	65.0%	63.5%	74.8%	Ohio	40	49.53%	49.4%	42.5%	46.9%	59.4%
Pennsylvania	16	58.96%	52.0%	44.8%	72.9%	66.2%	Delaware	41	49.13%	31.3%	43.8%	65.6%	55.9%
Indiana	17	58.62%	61.5%	61.5%	54.2%	57.3%	South Carolina	42	47.96%	41.1%	50.0%	42.7%	58.0%
Nevada	18	58.45%	72.1%	55.2%	44.8%	61.7%	Vermont	43	47.39%	71.1%	44.5%	74.0%	0.0%
Iowa	19	58.32%	51.8%	45.5%	71.9%	64.1%	Tennessee	44	47.05%	38.5%	20.0%	56.3%	73.5%
Virginia	20	58.15%	63.6%	46.5%	55.2%	67.2%	Alabama	45	43.93%	0.0%	65.6%	34.4%	75.7%
Missouri	22	57.39%	45.5%	45.2%	71.9%	67.0%	Idaho	46	43.46%	61.9%	51.5%	60.4%	0.0%
Utah	22	57.39%	47.0%	64.4%	72.9%	45.2%	South Dakota	47	39.82%	36.3%	55.2%	25.0%	42.8%
New York	23	57.10%	52.1%	45.1%	49.0%	82.2%	Michigan	48	39.07%	55.1%	42.9%	58.3%	0.0%
Connecticut	24	56.87%	57.6%	56.5%	44.8%	68.6%	Wyoming	49	36.46%	16.1%	26.5%	55.2%	48.0%
Georgia	25	56.78%	55.5%	50.3%	53.1%	68.2%	Montana	50	28.06%	14.4%	12.7%	34.4%	50.8%

Integrity Laws

▶ Freedom of Information ▶ Open Meetings ▶ Whistleblower Protection ▶ Conflict of Interest

FREEDOM OF INFORMATION LAWS IN THE US

The states with the 10 highest scores in the open-records law perform particularly well in response time and in electronic format of data requested. All of the top 10 states have a response time of five days or less. Further, five of the top 10 states require a public agency to provide data in the electronic format requested if it is feasible to do so. The other five states require a public body to provide data in the electronic format requested if the public body already has the data in that format. The states are more varied in the other categories—though all 10 states score above average in each category.

None of the 10 states with the lowest scores in the open-records law cracked 40%, indicating that these states perform poorly across all categories. Only one of these states provides for any type of expedited process for petitioners who appeal a denial of records. None of these states has any requirements about the format of electronic documents; the only state that mentions electronic format just encourages the format to be useable, without including any specifics or requirements. Additionally, all states charge more than the actual cost of complying with requests.

The BGA viewed open-government laws through the lens of the average citizen.

Freedom of Information Act **Top 10**

State	Rank	% of Total
Arkansas	1	80.6%
New Jersey	2	76.1%
Nebraska	3	74.2%
Illinois	4	74.0%
Nevada	5	72.1%
Vermont	6	71.1%
Kentucky	7	67.7%
Colorado	8	65.1%
Virginia	9	63.6%
Rhode Island	10	63.0%

Freedom of Information Act **Bottom 10**

State	Rank	% of Total
Alabama	50	0.0%
Montana	49	14.4%
Wyoming	48	16.1%
Arizona	47	22.4%
Delaware	46	31.3%
Maine	45	31.8%
Alaska	44	32.5%
Massachusetts	43	33.0%
South Dakota	42	36.3%
Mississippi	41	37.6%
Oklahoma	41	37.6%

FREEDOM OF INFORMATION LAWS IN THE US

All 50 states have open-records laws giving citizens access to public records. While such laws are commonly known as Freedom of Information Acts (FOIA), not all states title their law in such way. Therefore, in this section, we refer to these laws as open-records laws. These laws create an open government in which citizens have access to public documents and records. This access allows citizens to oversee the activities of elected leaders, which is critical to achieving a successful democracy.

While states share the goal of open government, they differ in how effectively they codify that goal into law. This BGA analysis examines the open-records statutes of each of the 50 states in order to determine the effectiveness of each statute in promoting this policy.

To shape our analysis, the BGA viewed open-government laws through the lens of the average citizen; we ranked and assessed states based on the ability of average citizens to obtain documents about their government with the least amount of government interference and the least number of bureaucratic hurdles.

Previous versions of this BGA report did not include analysis of materials outside the text of state statutes on the matter of open-records law enforcement. This edition of the report includes examination of agency rules and regulations as well as case law—elements the BGA used to flesh out an objective analysis of state statute.



Each of the 50 states was compared against the others according to an objective assessment of the strength of open-government laws in three topics: Procedures, Barriers and Penalties. Each topic is broken down into categories designed to more finely analyze the strength of state laws in each topic. These categories are outlined below.

- ▶ **Procedures:** assesses the procedural guidelines in each state for obtaining public records.
 - ▶ Response Time: How soon after receiving a request for public information must a public body produce that information?
 - ▶ Expedited Process: Is there a mechanism that allows a citizen to have his grievances heard in a timely manner?
 - ▶ Appeals Process: If a citizen’s request for information has been denied, what legal process must he go through to challenge that decision?
- ▶ **Barriers to Access:** identifies burdens faced by the average citizen when attempting to obtain records in a usable format.
 - ▶ Availability of Electronic Format: Is a state required to comply with requests to have

- information provided in a specific electronic format?
- ▶ **Fees:** What fees can public bodies charge to citizens who request information?
- ▶ **Penalties:** assesses the punishment, if any, levied against a public body when it wrongfully denies access to a public record.

- ▶ **Attorney’s fees:** Are public bodies that violate an open-records law required to pay attorney’s fees to the petitioner who brings a suit against it?
- ▶ **Sanctions:** are there legal penalties against government employees who have violated an open-records law?

Each category was broken down into multiple criteria. Criteria were chosen in a manner that allows the BGA to conduct the most objective analysis of the categories in each state. Points were awarded to states based on the degree to which they met the standard of each criterion.

The chart above displays how we weighted topics into a state’s final open-records law score. The Procedures topic comprises 45% of the total score, Barriers comprises 30% of the total score and Penalties comprises 25% of the total score.

The BGA arrived at this weighting scheme by awarding the highest scores to states that made it easiest for citizens to obtain information through

FREEDOM OF INFORMATION LAWS IN THE US

a basic process. Therefore, we valued the procedural process and barriers that a citizen may face more highly than penalties that enforce the law. Further, most Procedures and Barriers categories affect all citizens who request information whereas Penalties categories only come into effect if a citizen appeals a denial and succeeds. This broader impact added to our decision to value the Procedures and Barriers topics more highly.

The table below shows the average score across all states in each topic. States performed the best in the Procedures topic with an average score of 52.8%. States performed the worst in the Barriers topic, where states had an average of 45.8%.

Freedom of Information Act Average Topic Scores

Topic	Average Score
Procedures	52.8%
Penalties	46.0%
Barriers	45.8%

Procedures

The Procedures topic’s categories and criteria are designed to assess the strength of each state’s process for obtaining public documents. The BGA’s scoring system favors laws that reduce hurdles to gaining information, make it more likely that request for information will receive information

Expedited Appeals Process	Appeals Process	Response Time
22%	33%	45%

in a timely manner, and create the easiest and most time-effective mechanisms for challenging a denial. A high score in the Procedures category means a state has a short, simple process that can be easily utilized by the average citizen to obtain public records. A low score means a state has a lengthy, burdensome process that is likely to discourage citizens from making requests or seeking enforcement of an open-records law.

Within the Procedures topic, the BGA considered the categories of Response Time, Appeals Process, and Expedited Appeals Process. As displayed in the chart above, Response Time comprises 45% of a state’s Procedures score, Appeals Process comprises 33%, and Expedited Appeals Process comprises the remaining 22% of a state’s Procedures score.

We placed the most value on the Response Time category because it has the largest impact on the ability of a citizen to receive public documents in a timely fashion. We placed less value on Appeals

Process because it only affects citizens who were denied a claim and chose to appeal that denial. However, we valued the Appeals Process category more than the Expedited Appeals Process category because Expedited Appeals Process only affects individuals who go through the court system to appeal a denial. Further, if the appeals

process is too cumbersome, those seeking public records are less likely to challenge wrongful denials in the first place.

Procedures Category Average Scores

Category	Average
Response Time	62.5%
Appeals Process	60.7%
Expedited Process	23.1%

The table above shows the average score across all states for each category within the Procedures topic. Most states fared relatively well in the Response Time and Appeals Process categories, with an average score of 62.5% and 60.7% respectively. Most state did not perform well in Expedited Appeals Process, with an average score of just 23.1%.

Response Time

Response time is the period of time that an agency has to respond to an initial request for public records. Often, those requesting public documents

FREEDOM OF INFORMATION LAWS IN THE US

ask for time sensitive materials. Therefore, the BGA awarded higher points to states with faster response times.¹

States that require a response time of less than five days received a score of four. These states offer the most protection to those seeking time sensitive documents. Eleven states have a response time of less than five days.

States that require a response time of five to 10 days received a score of three. These states give public bodies a concrete and relatively short amount of time to respond to requests. Twenty states have a response time of five to 10 days.

States that require a response time of 11 to 30 days received a score of two. The BGA acknowledges that these states set a reliable response time, but the length of time is insufficient for time-sensitive documents. Two states have a response time of 11 to 30 days.

States that only specify that a request must be responded to in a reasonable amount of time—a nebulous standard subject to the individual interpretation of each public body—received one point. Twelve states require public bodies to respond to requests in a reasonable amount of time.

States that fail to provide for a response time received a score of zero. These states make the timeliness of obtaining public records subject to the whim of public agencies. Three states did not provide a response time.

Appeals Process

A citizen whose request is denied enters into a legal appeals process. This process can include a combination of administrative remedies and court procedures. The BGA considered three main factors when scoring criteria for an appeals process: choice, cost and time. Overall, an appeals process received higher points if it was easy for an average citizen to navigate and if it provided a choice of venue. Often, a citizen will pursue an administrative venue to appeal a denial. That option can be more cost- and time-effective than pursuing an appeal in a court of law.

States that provide appellants a choice between administrative review and court received three points. These states allow the most flexibility. Sixteen states provide a choice of venue. States that send an appeal to a legislative entity before appealing the decision to a court received two points. While these states allow for an

administrative remedy, they restrict the options immediately available to the appellant. Ten states require appeals to go first to a legislative entity and then to court.

States that send appeals directly to a court of law with no administrative remedy received one point. Appealing to court can be costly and time-consuming and therefore discourages citizens to appeal a denial. Twenty-three states require that appeals go directly to court.

States with statutes not explicitly providing for an appeals process received zero points. These states fail to inform the average citizen of the right to appeal the denial to a higher authority. One state did not explicitly provide for an appeals process.

Expedited Appeals Process

Expedited Appeals Process is a procedural feature that allows those who challenge a public body in court to have their grievances heard in a timely manner. Without an expedited appeals process, it may be months or years before a case is heard and resolved in a congested court system. Lengthy court battles can render time-sensitive documents useless. The BGA awarded more points to states that allowed for an expedited appeals process.

States that require a case to be heard within 20 days after filing received three points. This requirement provides both a specific time frame and a sufficiently expedited process. Two states require a case to be heard within 20 days after filing.

¹ Often, agencies have the option of requesting an extension of the amount of time they have to respond to a request. The BGA did not examine the availability of those extensions in its analysis of response time.

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States that require a case to be heard within 21 to 30 days after a filing received two points. While this requirement provides a specific time frame, it doesn't adequately expedite the process. One state requires a case to be heard within 21 to 30 days after filing.

States that call for a hearing as soon as practicable received one point. While it is better than silence on the issue, the lack of specificity may delay a hearing. Twenty-one states call for a hearing as soon as practicable.

States that don't call for an expedited process received zero points. By not requiring an expedited process, states create the circumstance in which open-records cases may not be heard in a sufficiently short time. Twenty-six states have no expedited appeals process.

For more on the Index's Freedom of Information Act category methodology, please go to http://bit.ly/BGA_Integrity_Index_Extended_Methodology. For state-level Freedom of Information Act data, please go to http://bit.ly/BGA_Integrity_Index_FOIA_Data.

FREEDOM OF INFORMATION LAWS IN THE US

Freedom of Information Act **Final Rankings**

State	Rank	% of Total	State	Rank	% of Total	State	Rank	% of Total
Arkansas	1	80.6%	Florida	19	55.5%	North Dakota	35	39.1%
New Jersey	2	76.1%	Georgia	19	55.5%	New Mexico	36	38.8%
Nebraska	3	74.2%	Michigan	20	55.1%	Wisconsin	37	38.6%
Illinois	4	74.0%	New York	21	52.1%	Tennessee	38	38.5%
Nevada	5	72.1%	Minnesota	23	52.0%	North Carolina	39	37.7%
Vermont	6	71.1%	Pennsylvania	23	52.0%	Mississippi	41	37.6%
Kentucky	7	67.7%	Iowa	24	51.8%	Oklahoma	41	37.6%
Colorado	8	65.1%	West Virginia	25	50.2%	South Dakota	42	36.3%
Virginia	9	63.6%	Ohio	26	49.4%	Massachusetts	43	33.0%
Rhode Island	10	63.0%	Utah	27	47.0%	Alaska	44	32.5%
California	11	62.1%	Missouri	28	45.5%	Maine	45	31.8%
Idaho	12	61.9%	New Hampshire	29	45.2%	Delaware	46	31.3%
Indiana	14	61.5%	Oregon	30	45.1%	Arizona	47	22.4%
Louisiana	14	61.5%	Texas	31	43.4%	Wyoming	48	16.1%
Maryland	15	58.7%	Kansas	32	41.3%	Montana	49	14.4%
Connecticut	16	57.6%	South Carolina	33	41.1%	Alabama	50	0.0%
Washington	17	55.6%	Hawaii	34	40.8%			

OPEN-MEETINGS LAWS IN THE US

The top ten scores for the open-meetings act reflect the story of the law as a whole—all states have room for improvement. For example, the average score among the top ten states for both the Procedures and Penalties category is below 50%. However, as a whole, these ten states better addressed public information related to special and emergency meetings than other states.

The states with the ten lowest scores for their open-meetings act have scores ranging from 13.2 to 35.6%. These states performed particularly poorly in the public information category: Only one state requires an annual notice for regularly scheduled meetings. Further, one state specifies a time frame of only 24 hours for notice of public meetings. Four others require a reasonable amount of time and the other five have no time frame at all.

To shape our analysis, we considered how laws make it easier for a citizen to attend and monitor public meetings.

Open-Meetings Top 10

State	Rank	% of Total
Rhode Island	1	72.0%
Texas	2	69.4%
North Carolina	3	66.4%
Alabama	4	65.6%
Massachusetts	5	65.0%
Utah	6	64.4%
California	7	61.6%
Indiana	8	61.5%
Nebraska	9	61.3%
Illinois	10	60.9%

Open-Meetings Bottom 10

State	Rank	% of Total
Montana	50	12.7%
Tennessee	49	20.0%
Wyoming	48	26.5%
Maryland	47	27.5%
Alaska	46	30.9%
Colorado	45	31.7%
Kentucky	44	32.1%
Florida	43	34.1%
Arkansas	42	34.8%
Maine	41	35.1%

OPEN-MEETINGS LAWS IN THE US

Each of the 50 states has passed an open-meetings act giving citizens the right to observe meetings of public bodies. The purpose of such a law is to ensure that the deliberations and actions of public bodies are made openly.

To shape our analysis, we viewed the open-meetings acts from the perspective of an average citizen. In doing so, we considered how laws make it easier for a citizen to attend and monitor public meetings as well as to bring enforcement of penalties against public bodies that violate the acts.

Previous versions of this BGA report did not include analysis of materials outside the text of state statutes on the matter of open-meetings act enforcement. This edition of the report includes examination of agency rules and regulations as well as case law—elements the BGA used to flesh out an objective analysis of state statute.

Each of the 50 states was compared against the others according to an objective assessment

of the strength of its open-meetings act in four topics: Public Information about Regularly Scheduled Meetings, Public Information about Special and Emergency Meetings, Procedures, and Penalties. The four topics are broken down into categories designed to more finely analyze the strength of the state's law in each topic. These categories are outlined below.

► **Public Information about Regularly Scheduled Meetings:** addresses what details about regularly scheduled public meetings must be made available.

- Annual Notice: Are public bodies required to provide an annual schedule of all regularly scheduled meetings?
- Timing of Notice: When must public bodies notify the public before individual meetings?
- Content of Notice: What must a public body include in notices to the public about meetings?
- Location of Notice: Where must a public body post the notice to the public?
- Recordings allowed: Are members of the public explicitly allowed to record public meetings?
- Timing of Minutes Publication: When must a public body post minutes?

► **Public Information for Special and Emergency Meetings:** details the notice given to the public about special and emergency meetings.

- Definition: Are special and emergency circumstances explicitly defined?

- Timing of Notice: When must public bodies notify the public before a special or emergency meeting?
- Location of Notice: Where must a public body post the notice to the public about a special or emergency meeting?
- Agenda in Notice: Is a public body required to include an agenda in the notice for a special or emergency meeting?
- Media Notification: Is a public body required to contact the media before a special or emergency meeting?
- **Procedures:** reflects how difficult it is for a citizen to bring action against a public body for violating the open-meetings act.
- Expedited Process: Is there a mechanism that allows a citizen to have his grievances heard in a timely manner?
- Time Frame for Lawsuit: How long after a public body violates the open-meetings act can it be sued?
- **Penalties:** evaluates disincentives for public bodies to violate the open-meetings act.
- Sanctions: Are there penalties against government employees who have violated the open-meetings act?
- Attorney's Fees: Are public bodies that violate the open-meetings act required to pay attorney's fees to citizens who sue?

Each category was broken down into multiple criteria. Criteria were chosen to allow the BGA

OPEN-MEETINGS LAWS IN THE US

to conduct the most objective analysis of the categories in each state. Points were awarded to states based on the degree to which they meet the standard of each criterion.

Penalties	Procedures	Public Information for Special/Emergency	Public Information
15%	15%	30%	40%

The chart above displays how we weighted topics into a state’s final open-meetings act score. Public information about open meetings comprised 40% of the score, public information for special and emergency meetings comprised 30%, the procedure for enforcing the open-meetings act comprised 15%, and penalties for violating the open-meetings act comprised the remaining 15% of the total score.

The BGA arrived at this weighting scheme by awarding the highest scores to states who make it easy for the public to attend or learn what happened at a public meeting. We considered laws related to enforcement procedures and penalties as necessary but less expansive in their impact.

This choice reflects our broader decision to view the open-meetings act through the eyes of the average citizen: Because a member of the public is more likely to try to attend a meeting than challenge a public body for violating the open-meetings act, laws requiring more public

information have a broader impact. In addition, laws about public information affect when penalties come into play. For example, if a state doesn’t have a law requiring the posting of a notice by a specific time, a public body can’t be penalized for posting a notice just minutes in advance of a meeting. In other words, public information requirements dictate when penalties laws are triggered, which is another reason the BGA chose to place more value on the regulations related to public information.

Open-Meetings Topic Averages

Topic	Average
Public Information Average	46.3%
Public Information for Special/Emergency Meetings Average	50.5%
Sanctions Average	40.0%
Penalties Average	48.3%

The table above shows the average score of all states in each topic. States performed the best in the Public Information for Special and Emergency meetings topic, with an average score 50.5% of the total points possible. Sanctions, the lowest topic, had an average score 40%. This tight range indicates that no topic averaged much better than another. Further, the low average scores for all topics indicate that most states do not have open-meetings acts that reflect best practices.

For more on the Index’s Open-Meetings Act category methodology, please go to http://bit.ly/BGA_Integrity_Index_Extended_Methodology. For state-level Open-Meetings Act data, please go to http://bit.ly/BGA_Integrity_Index_OMA_Data.

OPEN-MEETINGS LAWS IN THE US

Open-Meetings Final Rankings

State	Rank	% of Total	State	Rank	% of Total	State	Rank	% of Total
Rhode Island	1	72.0%	South Dakota	18	55.2%	Mississippi	35	43.6%
Texas	2	69.4%	Oklahoma	19	53.8%	Michigan	36	42.9%
North Carolina	3	66.4%	Louisiana	20	52.1%	Ohio	37	42.5%
Alabama	4	65.6%	Idaho	21	51.5%	West Virginia	38	36.1%
Massachusetts	5	65.0%	New Mexico	22	50.7%	Oregon	39	36.0%
Utah	6	64.4%	Georgia	23	50.3%	Kansas	40	35.6%
California	7	61.6%	South Carolina	24	50.0%	Maine	41	35.1%
Indiana	8	61.5%	Virginia	25	46.5%	Arkansas	42	34.8%
Nebraska	9	61.3%	Minnesota	27	46.3%	Florida	43	34.1%
Illinois	10	60.9%	Wisconsin	27	46.3%	Kentucky	44	32.1%
New Hampshire	11	60.6%	Washington	28	45.9%	Colorado	45	31.7%
New Jersey	12	59.7%	Iowa	29	45.5%	Alaska	46	30.9%
North Dakota	13	59.3%	Missouri	30	45.2%	Maryland	47	27.5%
Arizona	14	58.2%	New York	31	45.1%	Wyoming	48	26.5%
Connecticut	15	56.5%	Pennsylvania	32	44.8%	Tennessee	49	20.0%
Hawaii	16	56.0%	Vermont	33	44.5%	Montana	50	12.7%
Nevada	18	55.2%	Delaware	34	43.8%			

WHISTLEBLOWER- PROTECTION LAWS IN THE US

The top ten scores in Whistleblower Protection range from 81% to 75%. All ten states have penalties for employees who knowingly and falsely claim that they experienced retaliatory action. All ten states protect all state-level public employees and one state, New Hampshire, also protects government contractors. All but two of these states require public employers to publicly post notice of whistleblower-protection rights.

The ten worst performing states in Whistleblower Protection earned scores ranging from 25% to 53%. None of these states provide for penalties against an employer that takes retaliatory action against a whistleblower and only half of the states penalize employees who wrongly claim retaliatory action. Further, only one state, Nevada, requires public employers to notify employees of their whistleblower rights.

The BGA viewed whistleblower-protection laws from the perspective of potential whistleblowers: public employees who want to expose waste or fraud in the government.

Whistleblower-Protection Top 10

State	Rank	% of Total
Texas	1	81.3%
California	3	79.2%
Kentucky	3	79.2%
New Hampshire	5	77.1%
New Jersey	5	77.1%
Alaska	7	76.0%
West Virginia	7	76.0%
Hawaii	8	75.0%
Vermont	10	74.0%
Oklahoma	10	74.0%

Whistleblower-Protection Bottom 10

State	Rank	% of Total
South Dakota	50	25.0%
Alabama	49	34.4%
Montana	49	34.4%
South Carolina	47	42.7%
Nevada	46	44.8%
Connecticut	46	44.8%
Ohio	44	46.9%
Florida	44	46.9%
New York	42	49.0%
Georgia	41	53.1%

WHISTLEBLOWER-PROTECTION LAWS IN THE US

All fifty states have whistleblower laws that protect public employees who publicly point out waste and fraud in government. Whistleblower laws were created largely as a response to retaliatory job actions such as discharge and transfers that were inflicted upon whistleblowers. These laws create protections for whistleblowers, increasing the likelihood that a public employee will report illegal or wasteful behavior and thereby potentially reducing the occurrence of that behavior.

From state to state, the scope and level of protection varies considerably, but the intent underlying the laws are common and clear: The public interest is upheld by protecting whistleblowers, punishing those that retaliate against whistleblowers and compensating whistleblowers for any harm they suffer for protecting the public. This BGA examination of whistleblower-protection statutes analyzes how effectively each state has formalized this intent into law.

To shape our analysis, the BGA viewed whistleblower-protection laws from the perspective of potential whistleblowers: public employees who want to expose waste or fraud in the government, but need both protection from retaliatory action and assurance that if they do face retaliatory action, there is a clear process for restitution.

Previous versions of this BGA report did not include analysis of materials outside the text of state statutes on the matter of whistleblower-protection enforcement. This edition of the report includes examination of agency rules and regulations as well as case law—elements the BGA used to flesh out an objective analysis of state statute.

Some states have separate statutes for private employees and public employees. In these instances, the BGA analyzed the statute that specifically protects public employees.

All fifty states were compared against each other according to an objective assessment of the strength of whistleblower-protection laws in eight categories, outlined below.¹

► **Scope of Employees Protected:** Which public employees does the state's whistleblower-protection law cover?

¹ In our examination of other laws, the BGA previously clustered categories into topics. We did not do so in this analysis because the whistleblower-protection categories did not naturally coalesce into such groupings.

- **Process for Protection:** What protocol must a public employee follow in order to qualify as a whistleblower?
- **Posting of Law:** Are public employees required to post the whistleblower-protection law in a conspicuous location in their office?
- **Prohibited Retaliation:** What retaliatory actions are specifically prohibited?
- **Appeals Process:** If public employees experience retaliation after blowing the whistle, how can they challenge retaliatory job actions?
- **Damages and Remedies:** What restitution is explicitly offered for a whistleblower who experiences retaliation?
- **Penalties for Employer:** What are the penalties for an employer who retaliates against a whistleblower?
- **Penalties for Bad-Faith Claims:** Are there penalties for employees who falsely claim retaliatory actions by their employers?

Because of their interdependence, we valued the categories equally, with each contributing 12.5% to a state's overall whistleblower-protection score.

WHISTLEBLOWER- PROTECTION LAWS IN THE US

The table on the right shows the average score across all states for each category. States performed relatively well in categories related to the scope and range of protection—who is protected and what they’re protected from. Additionally, the average score for the Damages and Remedies category is 63%, indicating that most states at least adequately address this issue. However, with regard to the process of obtaining these remedies, states fared poorer on average. Posting of law, appeals process, and penalties for employer all averaged under 60%. These averages indicate that most states do not appropriately promote knowledge of the statute, streamline the process for appeals, or discourage retaliation.

For more on the Index’s Whistleblower Protection category methodology, please go to http://bit.ly/BGA_Integrity_Index_Extended_Methodology. For state-level Whistleblower Protection data, please go to http://bit.ly/BGA_Integrity_Index_WBP_Data.

Whistleblower-Protection

Category Averages

Topic	Average
Scope of Employees Protected	64.7%
Process for Protection	66.6%
Posting of Law	52.0%
Prohibited Retaliation	78.0%
Appeals Process	57.3%
Damages and Remedies	63.3%
Penalties for Employer	34.0%
Penalties for Bad-Faith Claims	82.0%

WHISTLEBLOWER- PROTECTION LAWS IN THE US

Whistleblower-Protection Final Rankings

State	Rank	% of Total	State	Rank	% of Total	State	Rank	% of Total
Texas	1	81.3%	Kansas	18	67.7%	Michigan	35	58.3%
California	3	79.2%	Nebraska	20	66.7%	Arkansas	37	56.3%
Kentucky	3	79.2%	Washington	20	66.7%	Tennessee	37	56.3%
New Hampshire	5	77.1%	Delaware	21	65.6%	Virginia	39	55.2%
New Jersey	5	77.1%	New Mexico	24	64.6%	Wyoming	39	55.2%
Alaska	7	76.0%	Oregon	24	64.6%	Indiana	40	54.2%
West Virginia	7	76.0%	Mississippi	24	64.6%	Georgia	41	53.1%
Hawaii	8	75.0%	Louisiana	26	63.5%	New York	42	49.0%
Vermont	10	74.0%	Massachusetts	26	63.5%	Ohio	44	46.9%
Oklahoma	10	74.0%	Maine	28	62.5%	Florida	44	46.9%
Illinois	14	72.9%	Minnesota	28	62.5%	Nevada	46	44.8%
Rhode Island	14	72.9%	Arizona	30	61.5%	Connecticut	46	44.8%
Pennsylvania	14	72.9%	Maryland	30	61.5%	South Carolina	47	42.7%
Utah	14	72.9%	Idaho	33	60.4%	Alabama	49	34.4%
Iowa	16	71.9%	North Carolina	33	60.4%	Montana	49	34.4%
Missouri	16	71.9%	Wisconsin	33	60.4%	South Dakota	50	25.0%
North Dakota	17	70.8%	Colorado	34	59.4%			

CONFLICT OF INTEREST LAWS IN THE US

All top ten states have strong filing requirements. All require state-level elected officials to file full, yearly financial disclosure forms, and all but one require candidates to file financial disclosure forms. These ten states generally require extensive information related to employment, officer and director information and investments. Further, all but three of these states require that financial disclosure forms be available both in person and online.

Of the ten states with the lowest Conflict of Interest scores, three had scores of zero. Idaho, Michigan, and Vermont don't require state-level elected officials to file financial disclosure forms. Of the remaining seven states, only two require complete filing every year. None of these seven states require that financial disclosure forms be available online.

To shape our analysis, the BGA sought to establish an evaluation system that balances the importance of comprehensive disclosure forms with the need to ensure their completion and public accessibility.

Each of the 50 states was compared against the others according to an objective assessment of the strength of its financial disclosure laws.

Conflict of Interest Top 10

State	Rank	% of Total
Washington	1	82.8%
Louisiana	2	82.3%
New York	3	82.2%
Arizona	4	80.6%
Alabama	5	75.7%
West Virginia	6	75.4%
Massachusetts	7	74.8%
Tennessee	8	73.5%
Oregon	9	72.5%
Arkansas	12	72.3%
Maine	12	72.3%
North Carolina	12	72.3%

Conflict of Interest Bottom 10

State	Rank	% of Total
Vermont	50	0.0%
Michigan	50	0.0%
Idaho	50	0.0%
South Dakota	47	42.8%
Utah	46	45.2%
Wyoming	45	48.0%
Colorado	44	50.7%
Montana	43	50.8%
North Dakota	42	54.2%
Delaware	41	55.9%

CONFLICT OF INTEREST LAWS IN THE US

Previous versions of this BGA report did not include analysis of materials outside the text of state statutes on the matter of public records act enforcement. This edition of the report includes examination of rules and regulations as well as case law—elements the BGA used to flesh out an objective analysis of state statute.

Additionally, some states have different filing requirements for different public employees. This analysis is based on the rules regarding state-level elected officials. Whenever the terms “filer,” “elected official” or “financial disclosure form” are used, they refer to state-level elected officials and the financial disclosure forms they fill out.

Each of the 50 states was compared against the others according to an objective assessment of the strength of its financial disclosure laws in four topics: Filing Requirements, Content of the Form, Public Accessibility, and Penalties. Each topic is broken down into categories designed to more finely analyze the strength of state laws in each topic. These categories are outlined here.

- ▶ **Filing Requirement:** evaluates who must file and how often they must do so.
 - ▶ Requires Filing: Does the state require filers to file financial disclosure forms?
 - ▶ Annual Filing: Does the state require elected officials to file financial disclosure forms every year?

- ▶ Method of Access: through what means can a member of the public access financial disclosure forms?
- ▶ **Enforcement:** assesses penalties in place for elected officials who do not comply with financial disclosure requirements.

Filing Requirement	Public Accessibility	Enforcement	Content of Form
20%	20%	20%	40%

- ▶ Complete Filing: Does the state require complete filing each year, or do they allow for annual amendments to forms?
- ▶ Candidate Filing: Are candidates for state-level offices required to file?
- ▶ **Content of Form:** identifies what filers must disclose on the form.
 - ▶ Employment Information: What must filers include about outside employment?
 - ▶ Officer/Director Information: What must filers include about any officer or directorship positions they hold?
 - ▶ Investment Information: What must filers include about their investment holdings?
 - ▶ Client Information: What must filers include about their clients?
 - ▶ Real Property Information: What must filers include about their real property holdings?
 - ▶ Family Information: What must filers include about their family members' financial interests?

- ▶ Late-filing Penalty: Is there a penalty for elected officials who file their financial disclosure forms late?
- ▶ Misfiling Penalty: Is there a penalty for elected officials who include false information on their financial disclosure form?
- ▶ Procedure for Enforcement: How does a state identify who filed late or misfiled?

Each category was broken down into multiple criteria. Criteria were chosen in a manner that allows the BGA to conduct the most objective analysis of the categories in each state. Points were awarded to states based on the degree to which they met the standard of each criterion.

The above chart displays how we weighted topics into a state's final financial disclosure law score. Of each state's total score, filing requirements comprises 20%, content of form 40%, public accessibility 20% and enforcement 20%.

CONFLICT OF INTEREST LAWS IN THE US

In determining an overall weighting scheme, the BGA sought to balance the importance and reflect the interdependence of each topic. Content of Form was weighted most heavily both because of how much information it contains and because of the necessity of gathering comprehensive information. The other topics are weighted equally because each was determined to serve an equal function in fulfilling the purpose of financial disclosure laws: Strict enforcement and comprehensive filing requirements don't mean much if the public can't access the forms; easily accessible documents provide little information if there aren't penalties to enforce their accuracy; the ability to access accurate forms

doesn't provide good information if an elected official isn't required to regularly file forms.

The table below shows the average score across all states in each topic. The Filing Requirements topic has the highest average score at 84.5%. This means that most states require elected officials to regularly file financial disclosure forms. However, the lowest score is the Content of Form topic's, indicating that while most states require elected officials to file, many states aren't requiring them to provide comprehensive information.

Conflict of Interest Topic Averages

Topic	Average Score
Filing Requirements	84.5%
Content of Form	47.6%
Public Accessibility	59.0%
Enforcement	70.4%

For more on the Index's Conflict of Interest category methodology, please go to http://bit.ly/BGA_Integrity_Index_Extended_Methodology. For state-level Conflict of Interest data, please go to http://bit.ly/BGA_Integrity_Index_COI_Data.

CONFLICT OF INTEREST LAWS IN THE US

Conflict of Interest Final Rankings

State	Rank	% of Total	State	Rank	% of Total	State	Rank	% of Total
Washington	1	82.8%	Kentucky	18	69.8%	Ohio	35	59.4%
Louisiana	2	82.3%	Florida	19	69.0%	New Mexico	36	59.1%
New York	3	82.2%	Connecticut	20	68.6%	New Hampshire	37	58.8%
Arizona	4	80.6%	Georgia	22	68.2%	Oklahoma	38	58.7%
Alabama	5	75.7%	Kansas	22	68.2%	South Carolina	39	58.0%
West Virginia	6	75.4%	Virginia	23	67.2%	Indiana	40	57.3%
Massachusetts	7	74.8%	Missouri	24	67.0%	Delaware	41	55.9%
Tennessee	8	73.5%	California	25	66.3%	North Dakota	42	54.2%
Oregon	9	72.5%	Illinois	27	66.2%	Montana	43	50.8%
Arkansas	12	72.3%	Pennsylvania	27	66.2%	Colorado	44	50.7%
Maine	12	72.3%	Hawaii	28	65.1%	Wyoming	45	48.0%
North Carolina	12	72.3%	Texas	29	64.8%	Utah	46	45.2%
Alaska	13	72.1%	Iowa	30	64.1%	South Dakota	47	42.8%
Mississippi	14	71.5%	New Jersey	31	63.9%	Idaho	50	0.0%
Rhode Island	15	71.2%	Wisconsin	32	63.5%	Michigan	50	0.0%
Maryland	16	71.0%	Nevada	33	61.7%	Vermont	50	0.0%
Nebraska	17	70.4%	Minnesota	34	60.0%			

The Wrap-up

▶ **Best Practices** ▶ **Integrity Index 2013 vs. 2008** ▶ **A Letter from Alper Services**

WHAT ARE “BEST PRACTICES?”

To create this Index, the BGA measured states’ laws against best practices in each of the four types of statutes. These best practices that should be part of all state statutes are highlighted below.

Freedom of Information Act

Response Time. An agency that receives a request for public information should respond within five business days. This time frame provides adequate response for documents that may be time sensitive.

Obstacles. Barriers to accessing public information should be minimized, especially in this digital era when it is easier and more cost-effective than ever to turn over documents and other data quickly and easily. Public agencies should provide the document in the electronic format requested, if feasible. Public agencies should only charge fees for the actual cost of the physical copies, and not for labor or retrieval.

The BGA measured states’ laws against best practices. To guide our analysis, the BGA relied on four core principles: transparency, accountability, access, and process.

What are BGA Core Principles?

To guide our analysis, the BGA relied on four core principles, which are outlined below.

Transparency—“Blue sky” or “sunshine” laws require openness in government. The more open the required operations of government are the more likely its operations will be conducted with integrity.

Accountability—A law without teeth is not much of a law at all. Penalties for violating laws that promote integrity increase the likelihood that these laws will be followed.

Access—Rights created or recognized by laws should be accessible to an average citizen. Special status or extra resources should not be needed to benefit from integrity laws.

Process—Procedures and protocols ensuring proper implementation of integrity laws should be easily understood, straightforward and cost-effective for taxpayers. The process should not create additional barriers or burdens on the public.

WHAT ARE “BEST PRACTICES?”

Appeals. Upon denial of access to a government record, the public should be able to challenge that denial by either choosing an administrative remedy or a court hearing.

Expedited Process. If an appeal ends up in court, that action should be expedited on the court docket and heard within seven days.

Attorney’s Fees. Members of the public should be awarded attorney’s fees if they appeal to a court, and win, a case concerning denial of access to public records.

Sanctions. Any person found to have violated an open records law should be subject to both criminal and civil penalties that increase with each offense. Additionally, anyone who willfully violates the law should be subject to termination.

Open-Meetings Act

Public Information. Government bodies should provide an annual notice of all regularly scheduled meetings. Additionally, public bodies should provide notice for these regularly scheduled meetings at least 72 hours in advance. These notices should be posted in a consistent public location as well as online, and should contain the time and place of the meeting and an agenda. At public meetings, attendees should be able to record meetings without any special provisions, and after the meetings, minutes should be published within three days of approval.

Special and Emergency Meetings. Circumstances can dictate if public bodies must meet outside their regular meeting schedule. The special and emergency situations that legitimize such meetings should be specifically defined in order to prevent their abuse since these types of meetings have weaker public information requirements. Notice of special meetings should be provided at least 24 hours in advance and notice of emergency meetings should be provided in a timely manner reasonable under the circumstances of the emergency. Notices for both types of meetings should include an agenda and should be posted in a public location. Further, public bodies invoking these types of meetings should notify the media to ensure adequate news coverage.

Enforcement. If a public body violates an open-meetings act, there should be a clear and direct path for a member of the public to challenge the

entity, as well as strong legal sanctions against the public body.

There should also be strong legal sanctions if the public body is found in violation of the act. The time frame in which an open-meetings act case must be brought to court should be two years or more and once such a case goes to court, it should be expedited and heard within fourteen days. If a member of the public wins in court, he should be able to recover his attorney’s fees. Public bodies should be subject to both civil and criminal sanctions. Additionally, actions taken at illegally held meetings should have the potential to be voided. An individual who repeatedly violates the open-meetings act should be subject to increasing sanctions and if the violation is willful, the employee should be subject to termination.

Conflict of Interest

Filing. State-level elected officials should be required to file complete, annual financial disclosure forms. Candidates for these offices should be required to file these forms as well.

Content of Forms. Financial disclosure forms should require detailed information on an official’s or candidate’s outside employment; officer and director positions; investments; clients, and real property. States should also require filers to disclose this information about their spouses. Forms should make it clear which information belongs to a filer and which belongs to a spouse. Further, filers should disclose whether members of

WHAT ARE “BEST PRACTICES?”

their families have contracts with the government or are lobbyists in their state.

Public Access. Completed financial disclosure forms should be available both in person at a central location and online.

Enforcement. States should allow for automatic audits of the timeliness and accuracy of all financial disclosure forms. There should be penalties for both filing forms late and for providing false information on forms.

Whistleblower Protection

Scope of Protection. Whistleblower-protection laws should cover all public employees as well as all government contractors. Public employers should be required to post a notice of employees' whistleblower rights in a conspicuous location in the office.

Process for Protection. A public employee seeking to blow the whistle should not be subject to an unduly complicated reporting process. Whistleblowers should be able to report government misconduct to anyone, including the press, and still receive protection. Further, they should not have to give the person whose behavior is in question an opportunity to correct that behavior before blowing the whistle. They should also be able to make verbal or written reports.

Prohibited Retaliations. Retaliatory actions are those that an employer takes against an employee who blew the whistle. States should define retaliatory actions specifically and exhaustively by including a list of prohibited job actions as well as a catchall phrase that covers any other action an employer may take against a whistleblower. Additionally, states should prohibit threatening whistleblowers with retaliation.

Appeals Process. If whistleblowers are subjected to retaliatory actions, they should be able to choose between challenging the action through administrative remedy or in court. Statutes should permit whistleblowers to win normal damages and remedies, punitive damages and attorney's fees. Employers taking retaliatory action should be subject to criminal charges.

Penalties for Bad-Faith Claims. The BGA recognizes that good governance laws must be well rounded and fair for all affected parties. Employees who make bad-faith claims by falsely accusing employers of retaliation should be subject to penalties.

INTEGRITY INDEX 2013 vs. 2008

Much has changed throughout the United States since the last *BGA-Alper Services Integrity Index* appeared in 2008.

It is vital for the reader to understand that this latest Index is not meant to be a direct comparison to the 2008 version. Noting that a state has a higher or lower ranking in this year's charts, compared to 2008's Index could be misleading because the exact same research methodology and weighting does not apply to both versions.

Each Index reveals where the states' integrity laws are at the moment and how each stack up against the other states. In short, an Index acts as a snapshot in time, not a historical measure.

It is vital for the reader to understand that this latest Index is not meant to be a direct comparison to the 2008 version.



INTEGRITY INDEX

2013 vs. 2008

Here are some of the differences between 2013 and 2008:

- ▶ The 2008 Index included a section dedicated to campaign-finance laws while the 2013 version does not. The 2010 Supreme Court ruling in the Citizens United case dramatically changed the landscape for campaign-finance laws. This shift made much of the 2008 analysis irrelevant and added numerous complications to performing any comprehensive analysis of current state campaign-finance laws. Due to this increased complexity, the BGA determined it could not perform a comprehensive analysis of current campaign-finance laws.
- ▶ This iteration of the Index includes an analysis of the role technology should play in open-records laws, open-meetings acts, and conflict of interest laws, whereas the 2008 index does not include such analysis.

- ▶ In analyzing open-records laws (Freedom of Information Act) for the 2013 Index, the BGA considered barriers to obtaining records, such as fees. The 2008 Index did not include this information.
- ▶ Finally, the BGA updated the methods behind analyzing the data: Final scores are based off of weighted averages of different pieces of information. In the 2013 Index, we reevaluated the manner in which these weights were determined.

While there are significant differences between the two Indexes, their missions are still very similar. (The BGA also did an Integrity Index in 2001.) Taken on their own merits, each provides a unique perspective on the overall integrity environment as it pertains to protecting and advancing the public's right to free, open and accessible government.

FROM ALPER SERVICES LLC

Integrity and transparency are integral to business and governmental success. Only when these valued characteristics are pre-eminent may businesses and governments operate efficiently.

Alper Services is a proud, longtime partner of the Better Government Association and is honored to sponsor the *BGA-Alper Services Integrity Index*.

The *2013 BGA-Alper Services Integrity Index* measures each state's strength, or integrity, of their laws in four key areas: Open Meetings, Freedom of Information, Whistleblower Protection and Conflict of Interest Regulation.

What is Alper Services?

Alper Services is a Chicago-based company that provides a full range of business, financial and insurance services including cost reduction consulting, claim management and brokerage services.

It is our hope that our support will advance the BGA's mission to shine light on government and hold public officials accountable.

FROM ALPER SERVICES LLC

The result: Businesses will pay less in “hidden” taxes, hire more employees, become more profitable and thus grow a healthier economy.

Here's to a brighter future!

We believe that these respective measurements will indicate how states may line up in their relative commitments to integrity and transparency of their governments.



Howard C. Alper
Chairman & CEO
Alper Services LLC

We thank the BGA and its entire policy team for all their thoughtful hard work and research necessary to create the *2013 BGA-Alper Services Integrity Index*.



David Macknin
President
Alper Services LLC

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